

STRATEGIC GOAL 2

A SECURE WORKFORCE



DOL is committed to promoting the economic security of workers and their families by protecting workers' hours, wages, and other job conditions; providing unemployment and compensation benefits when workers are unable to work; and expanding, enhancing, and protecting pension, health care, and other benefits. Priorities are to increase compliance with minimum wage and overtime requirements, promote secure retirements for working Americans, provide more pensions for women and employees of small businesses, broaden access to health care, and shorten periods of unemployment in those areas suffering from rapid economic change.

Mid-century workers on the picket line (DOL library collection).

OUTCOME
GOAL 2.1 –
INCREASE
COMPLIANCE
WITH WORKER
PROTECTION
LAWS

OVERVIEW

The Department of Labor administers and enforces more than 180 Federal laws. These mandates and the governing regulations cover more than ten million employers and 125 million workers in various workplace activities. In 1999, DOL celebrated the 61st anniversary of the Fair Labor Standards Act (FLSA) which established minimum wage, overtime standards, and child labor restrictions. DOL also celebrated the 25th anniversary of the Employee Retirement Income Security Act (ERISA) which protects the integrity of private pension, health, and other employee benefit plans. While these hallmark worker protection laws have continued to serve their goals, they have also grown increasingly difficult to administer given the dynamic and complex changes that are occurring in America's workforce.

SERVING THE PUBLIC

In furthering the economic security and welfare of workers and families, the Department seeks to achieve and promote compliance with worker protection laws through administrative and educational programs and enforcement activities. While regarded as a tough, no-nonsense enforcement Agency, DOL actively promotes voluntary compliance throughout its various programs. A multi-pronged approach to achieving increased compliance includes enforcement, education, partnership, and recognition, involving all segments of business and industry – contractors, manufacturers, retailers, consumers, worker advocacy groups, financial and health care communities, and unions.

The primary Agencies and programs dedicated to achieving this goal are the Employment Standards Administration's (ESA) Wage and Hour Division and Office of Labor Management Standards, and the Pension and Welfare Benefits Administration. Both DOL Agencies have developed compliance assistance programs that encourage up-front compliance through public education and outreach, while at the same time conducting complaint-based investigations and other enforcement techniques. In addition, significant resources are devoted to increasing public access to vital information used to monitor and secure entitlements. DOL believes that an informed public enables individuals and practitioners to better understand their rights under the law and recover any benefits or wages owed. Each year, the Department distributes hundreds of thousands of publications and pamphlets that provide basic information about voluntary compliance, and staff conduct hundreds of educational meetings, conferences, and seminars, as part of the DOL outreach effort.

DOL CHALLENGES FOR THE FUTURE

The primary challenge for DOL's worker protection agencies in the 21st century will be to adapt to the multiple changes occurring in the American workforce. Virtual workplaces, aging workers, increased numbers of women and minorities, immigration, organized labor, the growth of small businesses, and the ongoing shift from a manufacturing to a service economy will all be important factors as U.S. businesses comply with worker protection laws in the future.

PROTECT LOW-WAGE WORKERS

Goal 2.1A: Increase compliance with labor standards laws and regulations by five percent in the San Francisco and New York City garment industries; in the agricultural industry—establish baselines for the commodities of onions, lettuce, and cucumbers; and establish a baseline for residential health care (assisted living facilities).

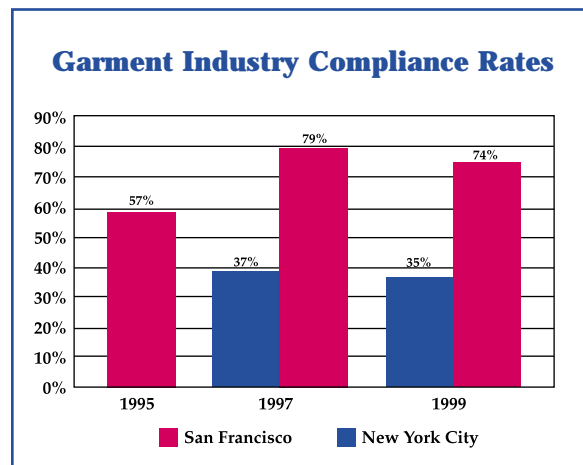
Program Description: DOL's Employment Standards Administration (ESA) is responsible for administering and enforcing a number of laws that establish the minimally acceptable standards for wages and working conditions in this country. These labor standards statutes—including the Fair Labor Standards Act (FLSA), which establishes the minimum wage, overtime standards, and child labor restrictions—protect the most vulnerable in the workplace, low-wage workers and the working poor.

Garment

Results: The level of compliance in the San Francisco and New York City garment industries is essentially unchanged.

Analysis of Results: Industry-wide compliance rates are measured through investigation-based compliance surveys of a representative, random sample of employers in the industry or sector every two to three years. Garment manufacturing compliance surveys in both New York City and San Francisco in 1999 found no statistically significant change in the overall level of compliance. The rate of compliance in San Francisco is 74

percent. (The 1997 level was 79 percent; up from 57 percent in 1995.) The rate of compliance in New York City is 35 percent. (The first survey in 1997 found a compliance level of 37 percent.)

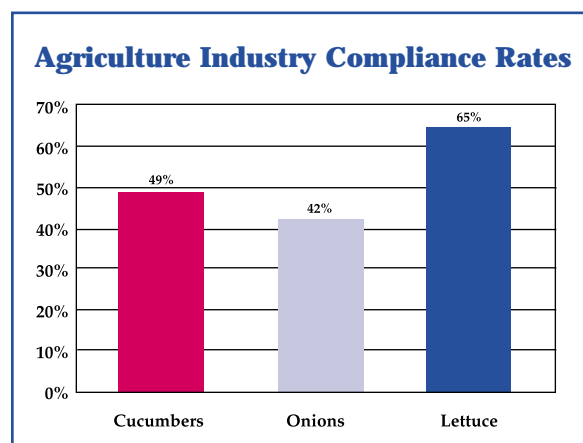


Garment industry compliance rates have been essentially unchanged since FY 1997.

Agriculture

Results: Compliance baselines were established in three agricultural "salad bowl" commodities—cucumbers, onions, and lettuce—by investigation-based compliance surveys.

Analysis of Results: The 1999 data establishes the baseline and will be used to measure changes in the level of compliance in the future and attribute causality to the changes.



Baseline compliance rates were established in three new agriculture industries in FY 1999.

Residential Health Care

Results: A compliance baseline of 57 percent was established for the residential health care sector of the health care industry by an investigation-based compliance survey.

Analysis of Results: The 1999 data will be the basis for measuring

changes in the level of compliance in the future and attributing causality to changes.

Strategies: In low-wage industries such as garment, agriculture, and healthcare, ESA pursues a multi-prong strategy of enforcement (targeted investigations, invoking the "hot goods" provision of FLSA, assessment of penalties, and development of cases for civil and criminal prosecution), education/outreach (compliance seminars for employers, town hall meetings for workers, and distribution of a variety of compliance assistance materials) and partnerships (compliance agreements involving multi-establishment employers, interventions by commercial suppliers/customers of products made in violation of FLSA, and development/maintenance of relationships with nonprofit organizations, States, and other Federal agencies).

Goal Assessment and Future Plans:

While the long-term goal of increasing compliance in the garment manufacturing, agriculture, and health care industries remains unchanged, this specific performance goal has been modified in the Department's FY 2000 Annual Performance Plan to measure compliance levels in different sectors of those industries and to allow for two to three years of intervening strategies in those sectors. In particular, specific activities are being carried out for new and small businesses because the compliance surveys showed lower rates of compliance for these firms. It is expected that the intervening year strategies to improve compliance will be reflected in subsequent compliance surveys. In FY 2000, a compliance

survey will be conducted in the garment manufacturing industry in Los Angeles to determine if the level of compliance has increased to the next interim target. In agriculture, a compliance survey will be conducted of another "salad bowl" commodity—garlic—to determine a baseline. Similarly, a baseline will be determined for forestry. In FY 2000, the poultry processing industry and the nursing home sector of the health care industry will also be measured to determine if compliance has improved by five percent. ■

EFFECTIVE ENFORCEMENT OF LABOR STANDARDS

Goal 2.1B: To increase compliance among employers, which were previous violators and the subject of repeat investigations, establish baselines in the San Francisco and New York City garment industries; in the agricultural commodities of lettuce, cucumbers, and onions; and in the residential health care industry.

Program Description: DOL's Employment Standards Administration is responsible for administering and enforcing a number of laws that establish the minimally acceptable standards for wages and working conditions in this country. These labor standards statutes—including the Fair Labor Standards Act (FLSA), which establishes the minimum wage, overtime standards, and child labor restrictions—protect the most vulnerable in the workplace, low-wage workers and the working poor.

Garment

Results: Compliance baselines of 86 percent in San Francisco and 52 percent in New York City were established for employers that were previous violators and the subject of repeat investigations.

Analysis of Results: The 1999 data establishes the baseline and will be used to measure changes in the level of compliance in the future and attribute causality to the changes.

Agriculture

Results: Compliance baselines of 43 percent were established for lettuce, 42 percent for onions and 37 percent for cucumbers.

Analysis of Results: The 1999 data will be the basis for measuring changes in the level of compliance and attributing causality to changes.

Residential Health Care

Results: A compliance baseline of 55 percent was established for previous violators in the residential health care industry.

Analysis of Results: The 1999 data will be the basis for measuring changes in the level of compliance and attributing causality to changes.

Strategies: In low-wage industries such as garment, agriculture, and health care, the Employment Standards Administration (ESA) pursues a multi-prong strategy of enforcement (targeted investigations, invoking the "hot goods" provision of FLSA, assessment of penalties, and development of cases for civil and criminal prosecution), education/outreach (compliance seminars for employers, town hall meetings for workers, and distribution of a variety of compliance assistance materials) and partnerships (compliance agreements involving multi-establishment employers, interventions from commercial suppliers/customers of products made in violation of FLSA, and development/maintenance of relationships with nonprofit organizations, States, and other Federal agencies)

Goal Assessment and Future Plans: While the long-term goal of increasing compliance among previous violators in the garment manufacturing, agriculture, and health care industries remains unchanged, this specific performance goal has been modified for FY 2000 to measure compliance

levels in different sectors of those industries and to allow for two-to-three years of intervening strategies in those sectors. In particular, specific activities are being carried out for new and small businesses because the compliance surveys showed lower rates of compliance for these firms. It is expected that the intervening year strategies to improve compliance will be reflected in subsequent compliance surveys.

In FY 2000, a compliance survey will be conducted in the garment manufacturing industry in Los Angeles to determine if the level of

compliance has increased to 45 percent from the 25 percent baseline established in 1998. In agriculture, a compliance survey will be conducted of another "salad bowl" commodity—garlic—to determine a baseline. Similarly, a baseline will be determined for forestry. In FY 2000, the poultry processing industry and the nursing home sector of the health care industry will be measured to determine if compliance has improved by five percent. The time frames for measuring progress in this goal is the same as in the previous goal. ■

CHILDREN IN THE ONION FIELDS – RIO GRANDE VALLEY, TEXAS

When ESA investigators found 50 children, some as young as five, working in the onion fields in Texas' Rio Grande Valley in 1998, the Department was determined to do as much as possible to keep that from happening again. In 1999, ESA found no violations of child labor in the valley's fields.

The Department negotiated compliance agreements with local growers requiring them to monitor their fields and farm labor contractors for compliance with child labor laws. The Department also brought together the Texas Produce Association, local school districts, the United Farm Workers, and a group of growers to establish Child Care Management Services, a day care program for migrant family children.

Now more children of migrant workers have a healthy alternative to going to the fields with their parents, an alternative that could lead to a better life for them.

PROTECT PENSION AND HEALTH BENEFITS

Goal 2.1C: Increase by 2.5 percent both the number of closed investigations of employee pension and health benefit plans where assets are restored and prohibited transactions are corrected.

Results: The Department significantly exceeded its FY 1999 performance targets, by closing 958 investigations of employee pension and health benefit plans where assets were restored, an increase of 56 percent over FY 1998. An additional 389 cases were closed where prohibited transactions were corrected, an increase of 62 percent over FY 1998.

Program Description: Where plan assets have been endangered by an imprudent act on the part of the fiduciary or have been otherwise misused, the Department's Pension and Welfare Benefits Administration (PWBA) seeks to have the transaction corrected to minimize potential loss or to have the plan made whole through the restoration of assets. Increasing the number of cases with fiduciary results is a partial indicator of the Department's success in protecting plan assets.

Analysis of Results: In FY 1999, the Department increased by 26 percent over the previous year, the number of limited investigations converted to full-fledged cases. In addition, cases closed with positive results were up 44 percent over FY 1998, a primary strategy to achieving the Department's goal.

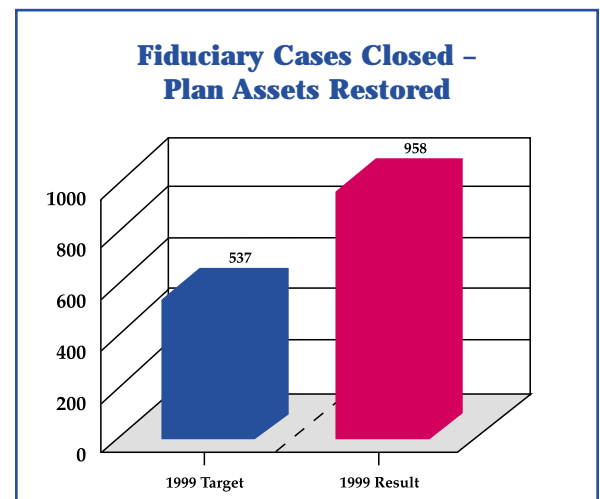
In FY 1999, the Department restored approximately \$494 million to benefit

plans as a result of its investigative efforts. In the absence of investigative efforts, these assets would have been lost to the participants and their beneficiaries. The restored amount represents an increase of approximately 45 percent since 1995. Due to the volatile nature of recoveries, past performance is not indicative of future performance in any given year nor is the trend constantly increasing. However, over the past several years, there has generally been an upward trend.

Strategies: The Department intends to continue improving its targeting of cases and investigative processes, ensuring that limited resources are utilized in an efficient and effective manner.

Goal Assessment and Future Plans:

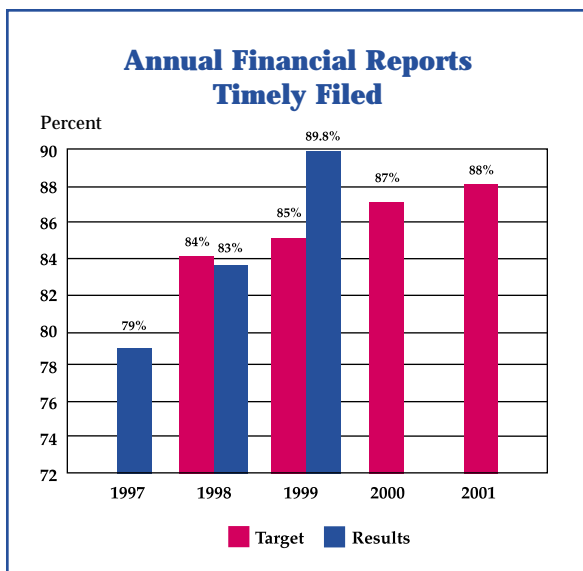
In FY 2000, the Department will maintain this performance goal but will set a more ambitious target given the recent experience. To protect against irregular fluctuations, DOL will also begin utilizing a two-year rolling average to measure the results. In FY 2001, the Department intends to begin reporting separate and distinct measures for pension and health enforcement to reflect the increased responsibilities in the health related enforcement arena. ■



INCREASE UNION REPORTING COMPLIANCE

²Goal 2.1E: Eighty-five percent of unions with annual receipts greater than \$200,000 timely file union annual financial reports for public disclosure access.

Results: This goal was exceeded in FY 1999. Among unions with receipts greater than \$200,000 required to file Labor-Management Reporting and Disclosure Act (LMRDA) annual financial reports, 89.8 percent filed on time. (One month of data, October 1998, was not available.)



Timely union reporting on finances was up substantially in FY 1999.

Program Description: The LMRDA establishes safeguards for union democracy and financial integrity. This performance goal is central to a principal objective of the LMRDA, that labor organization annual financial reports be

made available for public disclosure to promote union democracy and financial integrity.

Analysis of Results: For FY 1999, the performance goal was to increase, to 85 percent, the number of unions with annual receipts greater than \$200,000 that timely file the required LMRDA union annual financial reports for public disclosure access. The timely

filing rate for FY 1999 exceeded this goal as well as the target established for FY 2000. The FY 1999 result also is a substantial improvement over the timely filing rates of 83 percent in FY 1998 and 79 percent in FY 1997.

Performance results will be monitored in FY 2000 to determine whether performance targets should be adjusted. For FY 2000, the Department will strive to achieve timely union reporting compliance such that a minimum of 87 percent of labor organizations with annual receipts greater than \$200,000 file union annual financial reports in a timely manner.

Strategies: Various strategies were used to achieve the performance target: compliance assistance was provided to union officials; a liaison was established with a number of international unions to encourage their assistance in promoting timely LMRDA report-filing by their affiliates; and special contacts were made to remind unions delinquent in the prior year to file their reports on time. These program efforts will be continued in FY 2000 and beyond.

Goal Assessment and Future Plans: The timeliness and sufficiency of union annual financial reports are particularly significant in light of the new electronic report filing and Internet public disclosure system under development for implementation in 2001 that will expand public access to reported information. Continued improvement in the timely filing of labor organization annual financial reports will be sought. ■

²Goal 2.1D was not measured during FY 1999. An explanation is provided in Appendix 2.